

REMARKS

Claims 21-38 are pending in the application.

Claims 21-38 have been rejected.

Claims 30-38 have been amended, as set forth herein.

I. **INFORMATION DISCLOSURE STATEMENT**

The Office Action has indicated that some of the NPL documents in the information disclosure statement filed 5/3/2004 are not considered because copies of the NPL documents were not submitted. The Applicants submit that copies of the NPL documents listed in the information disclosure statement filed on 5/3/2004 previously were submitted in U.S. Patent Application No. 09/285,558, to which the instant application claims priority. Accordingly, per 37 C.F.R. 1.98, the Applicants respectfully request consideration of the NPL documents.

II. **OBJECTION**

The Office Action has objected to the ABSTRACT because of improper language. Applicants have amended the Abstract to recite a summary of the invention. Accordingly, the Applicants respectfully request withdrawal of the objection.

III. **REJECTION UNDER 35 U.S.C. § 101**

Claims 30-38 were rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. The Office Action states “Applicant’s specification fails to provide any definition for a ‘program product.’ ... claims 30-38 directly [sic] to the program product itself, not a process occurring as a result of the executing [sic] the program, a machine programmed to operate in accordance with the program nor a manufacture structurally and functionally interconnected with the program in a manner which enables the program product to act as a computer component and realize its functionality.”

Applicants have amended Claims 30-38 to claim a system for managing a virtual private network. Accordingly, the Applicant respectfully requests withdrawal of the § 101 rejection of Claims 30-38.

IV. REJECTION UNDER 35 U.S.C. § 103

Claims 21-38 were rejected under 35 U.S.C. § 103 as being unpatentable over Antur et al., (US 6,243,815) (hereinafter “*Antur*”) in view of Wallent et al., (US 6,366,912) (hereinafter “*Wallent*”). The rejection is respectfully traversed.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a *prima facie* case of obviousness. MPEP § 2142; *In re Fritch*, 972 F.2d 1260, 1262, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The initial burden of establishing a *prima facie* basis to deny patentability to a claimed invention is always upon the Patent Office. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 U.S.P.Q. 785, 788 (Fed. Cir. 1984). Only when a *prima facie* case of obviousness is established does the burden shift to the applicant to produce evidence of nonobviousness. MPEP § 2142; *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). If the Patent Office does not produce a *prima facie* case of unpatentability, then without more the applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 U.S.P.Q.2d 1443, 1444 (Fed. Cir. 1992); *In re Grabiak*, 769 F.2d 729, 733, 226 U.S.P.Q. 870, 873 (Fed. Cir. 1985).

A *prima facie* case of obviousness is established when the teachings of the prior art itself suggest the claimed subject matter to a person of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 783, 26 U.S.P.Q.2d 1529, 1531 (Fed. Cir. 1993). To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach

or suggest all the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. MPEP § 2142. In making a rejection, the examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (1966), viz., (1) the scope and content of the prior art; (2) the differences between the prior art and the claims at issue; and (3) the level of ordinary skill in the art. In addition to these factual determinations, the examiner must also provide "some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." (*In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir 2006) (cited with approval in *KSR Int'l v. Teleflex Inc.*, 127 S. Ct. 1727, 1741, 82 USPQ2d 1385, 1396 (2007)).

Claims 21-28

Independent Claim 21 recites providing a graphical user interface configured to display at least one link for accessing, via the internet, a web-page generated by a web-server associated with a switch offering virtual private network functions.

Applicants submit that neither *Antur* nor *Wallent* disclose at least the aforementioned feature of independent Claim 21. In particular, it is submitted that *Antur* does not disclose the switch. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Antur* and *Wallent* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The primary citation to *Antur* relates to a method for reconfiguring firewalls and security devices. *Antur* discusses a system for firewall servers coupled to a trusted network by a virtual private network to the internet. (See *Antur*, Col. 7, lines 1-40). The Office Action argues that *Antur* (Col. 5, lines 42-80[sic]; Col. 7, lines 36-40) teaches accessing, via the internet, a web-page generated by a web-server associated with a switch offering virtual private network functions. The Office Action states "firewall supports VPN functions allow/not allow to access a particular website on the internet." However, Applicants submit that a firewall is not a switch. *Antur* expressly teaches a firewall server coupling to a trusted network via a direct connection or VPN.

Thus, the firewall of *Antur* cannot be reasonably interpreted as a switch offering virtual private network functions. Independent Claim 21 recites a switch offering virtual private network functions.

Wallent relates to a computer based system and method for providing security zones and is cited for its alleged disclosure of a Web site dialogue window as a graphic user interface configured to display at least one link. (Office Action, page 4). Applicants submit that *Wallent* adds nothing that would remedy the aforementioned deficiency in *Antur*.

Claims 22-28 depend from, and further limit, independent Claim 21. These claims are allowable for at least the same reasons as the claim from which they depend, discussed above.

Accordingly, the Applicants respectfully request withdrawal of the § 103(a) rejection of Claims 21-28.

Claims 29-38

The Office Action asserts that the limitations of Claims 29-38 are similar to those found in Claims 21-28 and rejects Claims 29-38 based on the same rationale. Therefore, these claims are allowable for at least the same, or similar, reasons as Claims 21-28, discussed above. Accordingly, the Applicants respectfully request withdrawal of the § 103(a) rejection of Claims 29-38.

V. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.


If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *rmccutcheon@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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